

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
(Attorney Docket № 14278US02)**

In the Application of:

Jeyhan Karaoguz, et al.

Electronically Filed on October 2, 2008

Serial No. 10/675,467

Filed: September 30, 2003

For: METHOD AND SYSTEM FOR
PERSONAL CHANNEL
PROGRAMMING IN A MEDIA
EXCHANGE NETWORK

Examiner: Patrick A. Ryan

Group Art Unit: 2623

Confirmation No. 5573

APPEAL BRIEF

Mail Stop Appeal Brief – Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The Applicant respectfully requests that the Board of Patent Appeals and Interferences reverse the final rejection of claims 1-31 of the present application. The Appeal Brief is timely because it is being filed with request for a one month extension of time in which to respond. Thus, the period for reply ends on October 19, 2008 (two months from the August 19, 2008, mailing date of the Notice of Panel Decision from Pre-Appeal Brief Review).

REAL PARTY IN INTEREST
(37 C.F.R. § 41.37(c)(1)(i))

The real party in interest is Broadcom Corporation, having a place of business at 16215 Alton Parkway, Irvine, California 92619.

RELATED APPEALS AND INTERFERENCES
(37 C.F.R. § 41.37(c)(1)(ii))

Not applicable.

STATUS OF THE CLAIMS
(37 C.F.R. § 41.37(c)(1)(iii))

The present application includes claims 1-31. These claims stand rejected.¹ The Applicants identify claims 16-49 as the claims that are being appealed. The text of the claims involved in this Appeal, namely, claims 1-31, is provided in the Claims Appendix.

STATUS OF AMENDMENTS
(37 C.F.R. § 41.37(c)(1)(iv))

Subsequent to the final rejection of claims 1-31 mailed April 10, 2008, the Applicant filed a Response.² The Response did not amend any of the claims.³

¹ See April 10, 2008 Office Action, June 25, 2008 Advisory Action and August 19, 2008 (and August 20, 2008) Notice of Panel Decision from Pre-Appeal Brief Review.

² See June 10, 2008 Response Under 37 C.F.R. § 1.116.

³ See *id.*

SUMMARY OF CLAIMED SUBJECT MATTER
(37 C.F.R. § 41.37(c)(1)(v))

Independent claim 1 recites the following:

A method for programming media content in a distributed media network,⁴ the method comprising:

selecting at least one customized media channel established by a user⁵ based on at least one input from said user;⁶

identifying one or more of media, data and/or service⁷ for said selected at least one customized media channel;⁸ and

presenting, at a first geographic location, directly in said at least one customized media channel, said identified one or more of media, data and/or service,⁹ wherein said media channel may be pushed¹⁰ from said first geographic location¹¹ to a second geographic location.¹²

⁴ See present application, *e.g.*, at page 4, lines 2-3 and Figure 1A, ref. 100.

⁵ See *id.*, *e.g.*, at Figure 6 “channels.”

⁶ See *id.*, *e.g.*, at page 4, lines 3-5 and page 12, lines 8-20.

⁷ See *id.*, *e.g.*, at page 16, line 20 to page 18, line 7.

⁸ See *id.*, *e.g.*, at page 4, lines 6-7 and page 12, lines 24-26.

⁹ See *id.*, *e.g.*, at page 4, lines 7-10 and page 12, line 26 to page 13, line 3.

¹⁰ See *id.*, *e.g.*, at page 17, lines 8-9, page 18, lines 4-7, page 19, line 25 to page 20, line 6.

¹¹ See *id.*, *e.g.*, at Figure 1A, ref. 103, Figure 3, refs. 303, 308 and 310, Figure 4, refs. 403, 409, 412.

¹² See *id.*, *e.g.*, at Figure 1A, ref. 104, Figure 3, refs. 303, 308 and 310, Figure 4, refs.

Independent claim 11 recites the following:

A machine-readable storage having stored thereon, a computer program having at least one code section for programming media content in a distributed media network,¹³ the at least one code section being executable by a machine for causing the machine to perform steps¹⁴ comprising:

selecting at least one customized media channel established by a user¹⁵ based on at least one input from said user;¹⁶

identifying one or more of media, data and/or service¹⁷ for said selected at least one customized media channel;¹⁸ and

presenting, at a first geographic location, directly in said at least one customized media channel, said identified one or more of media, data and/or service,¹⁹ wherein said media channel may be pushed²⁰ from said first geographic location²¹ to a second geographic location.²²

403, 409, 412.

¹³ See *id.*, e.g., at page 4, lines 25-27 and Figure 1A, ref. 100.

¹⁴ See *id.*, e.g., at page 4, line 27 to page 5, line 2.

¹⁵ See *id.*, e.g., at Figure 6 “channels.”

¹⁶ See *id.*, e.g., at page 4, lines 3-5 and page 12, lines 8-20.

¹⁷ See *id.*, e.g., at page 16, line 20 to page 18, line 7.

¹⁸ See *id.*, e.g., at page 4, lines 6-7 and page 12, lines 24-26.

¹⁹ See *id.*, e.g., at page 4, lines 7-10 and page 12, line 26 to page 13, line 3.

²⁰ See *id.*, e.g., at page 17, lines 8-9, page 18, lines 4-7, page 19, line 25 to page 20, line 6.

²¹ See *id.*, e.g., at Figure 1A, ref. 103, Figure 3, refs. 303, 308 and 310, Figure 4, refs. 403, 409, 412.

²² See *id.*, e.g., at Figure 1A, ref. 104, Figure 3, refs. 303, 308 and 310, Figure 4, refs. 403, 409, 412.

Independent claim 21 recites the following:

A system for programming media content in a distributed media network,²³ the system comprising:

at least one processor²⁴ that selects at least one customized media channel established by a user²⁵ based on at least one input from said user;²⁶

said at least one processor identifies one or more of media, data and/or service²⁷ for said selected at least one customized media channel;²⁸ and

said at least one processor presents, at a first geographic location,²⁹ directly in said at least one customized media channel, said identified one or more of media, data and/or service,³⁰ wherein said media channel may be pushed³¹ from said first geographic location to a second geographic location.³²

²³ See *id.*, e.g., at page 5, lines 3-4 and Figure 1A, ref. 100.

²⁴ See *id.*, e.g., at page 10, lines 17-20.

²⁵ See *id.*, e.g., at Figure 6 “channels.”

²⁶ See *id.*, e.g., at page 5, lines 4-6 and page 12, lines 8-20.

²⁷ See *id.*, e.g., at page 16, line 20 to page 18, line 7.

²⁸ See *id.*, e.g., at page 5, lines 7-9 and page 12, lines 24-26.

²⁹ See *id.*, e.g., at Figure 1A, ref. 103, Figure 3, refs. 303, 308 and 310, Figure 4, refs. 403, 409, 412.

³⁰ See *id.*, e.g., at page 5, lines 9-10 and page 12, line 26 to page 13, line 3.

³¹ See *id.*, e.g., at page 17, lines 8-9, page 18, lines 4-7, page 19, line 25 to page 20, line 6.

³² See *id.*, e.g., at Figure 1A, ref. 104, Figure 3, refs. 303, 308 and 310, Figure 4, refs. 403, 409, 412.

GROUND OF REJECTION TO BE REVIEWED ON APPEAL
(37 C.F.R. § 41.37(c)(1)(vi))

- Claims 1-7, 9-17, 19-27 and 30-31 stand rejected under 35 U.S.C. 102(e) as being anticipated by U.S. 2002/0104099 (“Novak”).
- Claims 8, 18 and 28 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Novak in view of U.S. 6,868,452 (“Eager”).

The final Office Action also provisionally rejected claims 1, 11 and 21 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 11 and 21 of copending Application No. 10/675,904. In response to this rejection, the Applicant filed a terminal disclaimer. Thus, the provisional double patenting rejection is moot.

ARGUMENT
(37 C.F.R. § 41.37(c)(1)(vii))

As noted above, the Office Action has maintained the rejection of claims 1-7, 9-17, 19-27 and 30-31 as being anticipated by Novak. The Office Action has not shown, however, that Novak describes, teaches or suggests **pushing a customized media channel** from a first geographic location to a second geographic location, as recited in the pending claims. Thus, the Office Action has not established a *prima facie* case of anticipation with respect to claims 1-7, 9-17, 19-27 and 30-31 or a *prima facie* case of obviousness with respect to claims 8, 18 and 28, as further explained below.

I. Novak Does Not Anticipate Claims 1-7, 9-17, 19-27 And 30-31

The Applicant first turns to the rejection of claims 1-7, 9-17, 19-27, and 29-31 under 35 U.S.C. 102(b) as being anticipated by Novak. “A claim is anticipated only if **each and every element** as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” See Manual of Patent Examining Procedure (MPEP) at 2131 (internal citation omitted). Further, “[t]he identical invention must be shown in as complete detail as is contained in the ... claim.” See *id.* (internal citation omitted).

The Applicant respectfully submits that Novak does not describe, teach or suggest at least the limitation of “wherein said media channel may be pushed from said first geographic location to a second geographic location,” as recited in independent claims 1, 11 and 21.

Initially, the Office Action cites Paragraph [0055] (*i.e.*, page 18, lines 4-7) of the **present application** and states that “in light of the specification, the Examiner interprets Applicant’s use of ‘channel [that] may be pushed’ to mean providing a path of access through the network (authorized users) in order to display a list of available media (user created media channels) to a receiving user in a similar manner to broadcast television.” See April 10, 2008 Office Action at page 4 and June 25, 2008 Advisory Action.

The portion of the Applicant’s specification cited by the Office Action states, however, that the “media exchange network allows users to effectively become their own broadcasters from their own homes by creating their own media **channels** and **pushing** those media **channels** to other authorized users on the media exchange

network....” See present application at page 18, lines 4-7 (emphasis added). The Applicant respectfully submits that the specification stands on its own and the cited portion of the Applicant’s specification clearly states that **users** can create their own media **channels** and **push** those media **channels** themselves to **other authorized users**. Moreover, the Applicant respectfully submits that there is a clear difference between “pushing” and “pulling” media.

The Office Action also states the following:

Novak teaches a method of and processor for programming media content in a distributed media network (using STB 152 executing the method of Figure 11 as described in Paragraphs 0078-0080), said method and processor operation comprising: selecting (by way of remote control button 174 described in Paragraph 0073 Lines 7-10) at least one customized media channel established by a user ("synthetic channel" described in Paragraph 0069 Lines 6-10; as displayed in EPG 152 during step 1112) based on at least one input from said user; identifying one or more of media, data and/or service (Figure 5 interface 506 as described in Paragraph 0061 Lines 5-8) for said selected at least one customized media channel; and presenting, at a first geographic location (upload source 122, as described in Paragraph [56]) directly in said at least one customized media channel, said identified one or more of media, data and/or service (see interface of Figure 7 described in Paragraphs 0064 Lines 1-10), wherein said media channel may be pushed from said first geographic location to a second geographic location (step 1104 to step 1110 of Figure 11, as described in Paragraphs [78]-[80] and with further reference to Paragraph [75] describing operations of “second location” STB 152).

See April 10, 2008 Office Action at page 10.

Referring to FIG. 11 of Novak, at block 1116, a provider 108 streams the media programs to the client terminal (the STB 152) for viewing by the end user. See Novak

at Figure 11 and ¶ [0086]. Novak, including all the steps recited in FIG. 11, does not describe, teach or suggest **that the communication channel, which includes personal and/or broadcast media**, may be **pushed** from **the first geographic location (where the STB 152 is) to a second geographic location**.

The “Examiner disagrees that Novak does not teach a first and second geographic location.” See April 10, 2008 Office Action at page 4. As clearly shown above, however, the Applicant is **not** asserting that Novak does not teach first and second geographic locations. Instead, the Applicant clearly demonstrates that Novak does not describe, teach or suggest a **communication channel**, which includes personal and/or broadcast media, that is **pushed** **from one geographic location to another geographic location**.

In fact, Novak discloses that media can be uploaded to a server and **a network provider** may communicate the uploaded media to an end user. In particular, Novak discloses the following:

FIG. 4 is a flow diagram illustrating a method to provide a media program to a synthetic channel in accordance with an embodiment of the invention. At a block 402, one or more media objects, such as video clips, **are uploaded to the web site 124** by the upload source (e.g., an individual or consumer). This can also include a server operated from an individual or consumer web server that is connected to the Internet with an “always available” Internet connection such as DSL, or cable modem. Thus, an embodiment of the invention allows an ordinary individual to perform the uploading, instead of or in addition to a typical “professional studio.” The upload source 122 can comprise or can use a set top box, a PC, or other access device to upload the media objects to the web site (e.g., to a server).

Novak at [0056] (emphasis added). Thus, as clearly shown above, Novak discloses that video clips, as opposed to a medial channel, are uploaded to a web site by an upload source. Novak does not describe, teach or suggest, however, **pushing a communication channel**, which includes personal and/or broadcast media, from **a first geographic location (where the STB 152 is) to a second geographic location**.

As noted above, however, the Office Action cites Figure 11 of Novak and states that “Novak teaches pushing a media channel from the first geographic location to the second geographic location.” See April 10, 2008 Office Action at page 4. In particular, the Office Action states that with “reference to Fig. 11, Novak teaches pushing a media channel from a first geographic location in step 1104 to a second geographic location in step 1110.” See *id.*

Figure 11 of Novak shows, however, step 1104 as “upload media objects,” while step 1110 is shown as “subscribe end user.” See Novak at Figure 11. Step 1106 states “organize media objects into media program(s),” while step 1108 states “link uploaded media objects to local studio and/or cable service provider.” See Novak at Figure 11. Novak is clear that media objects are “uploaded” and linked to a local studio and/or cable service provider. In particular, the individual “uploads media objects,” as opposed to a **media channel**, “to a server.” See Novak at [0078] (emphasis added).

In Novak, after the media objects are uploaded, “the individual organizes the uploaded media objects into one or more media programs for eventual broadcast to end users.” See *id.* at [0078]. “The uploaded objects are linked to the local studio 106, to the cable service provider 108, or to another party.” See *id.* at [0079]. The “end user is subscribed, thereby providing the end user with access to the EPG 153 that lists the

synthetic channel and/or making the end user eligible to receive the media programs.” See *id.* at [0080]. Note, Novak does not describe, teach or suggest that the individual pushes anything to the end user. Neither Figure 11, nor its associated description, describes, teaches or suggests **pushing a communication channel, which includes personal and/or broadcast media, from a first geographic location (where the STB 152 is) to a second geographic location.**

Moreover, with regard to the “synthetic channel” capability described in [0069] of Novak, the Applicant points out that Novak’s “synthetic channel” acts just like regular television programming – **an end user may tune to the programs in the channel and view them like regular television programming**. In other words, Novak discloses that the “synthetic channels” are simply broadcast as normal channels are broadcast, but not that one user pushes the synthetic channel to another user at a separate and distinct location.

As explained above, Novak does not describe, teach or suggest at least “wherein said media channel may be pushed from said first geographic location to a second geographic location,” as recited in independent claims 1, 11 and 21. Thus, for at least this reason, the Applicant respectfully submits that Novak does not anticipate claims 1-7, 9-17, 19-27, and 29-31.

II. The Proposed Combination Of Novak And Eager Does Not Render Claims 8, 18 And 28 Unpatentable

The Applicant respectfully submits that the proposed combination of Novak and Eager does not render claims 8, 18 and 28 unpatentable for at least the reasons discussed above.

III. CONCLUSION

For at least the reasons discussed above, the Applicant respectfully submits that the pending claims are allowable in all respects. Therefore, the Board is respectfully requested to reverse the rejections of pending claims 1-31.

PAYMENT OF FEES

The Commissioner is authorized to charge any necessary fees, including the \$540 fee for this Appeal Brief and the \$130 fee for the 1 month extension of time in which to respond, or credit overpayment to Deposit Account 13-0017.

Respectfully submitted,

Dated: October 2, 2008

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CLAIMS APPENDIX
(37 C.F.R. § 41.37(c)(1)(viii))

1. A method for programming media content in a distributed media network, the method comprising:

selecting at least one customized media channel established by a user based on at least one input from said user;

identifying one or more of media, data and/or service for said selected at least one customized media channel; and

presenting, at a first geographic location, directly in said at least one customized media channel, said identified one or more of media, data and/or service, wherein said media channel may be pushed from said first geographic location to a second geographic location.

2. The method according to claim 1, comprising displaying said identified one or more of media, data and/or service in a channel view corresponding to said at least one customized media channel.

3. The method according to claim 2, comprising scheduling said display of said identified one or more of media, data and/or service in said channel view corresponding to said at least one customized media channel.

4. The method according to claim 2, comprising updating said display with newly available one or more of media, data and/or service in said channel view corresponding to said at least one customized media channel.

5. The method according to claim 1, comprising transferring said identified one or more of media, data and/or service to said at least one customized media channel.

6. The method according to claim 1, comprising selecting said identified one or more of media, data and/or service from a third party.

7. The method according to claim 6, comprising transferring said selected one or more of media, data and/or service from a storage associated with said third party into said at least one customized media channel.

8. The method according to claim 7, comprising queuing said one or more of media, data and/or service prior to said transfer, said queuing based on one or more of a bandwidth usage, a delivery cost and/or a delivery schedule.

9. The method according to claim 1, comprising receiving said selection of said identified one or more of media, data and service based on one or both of a device view and/or a media view.

10. The method according to claim 1, comprising controlling said presentation of said identified one or more of media, data and/or service from a graphical user interface corresponding to a channel view.

11. A machine-readable storage having stored thereon, a computer program having at least one code section for programming media content in a distributed media network, the at least one code section being executable by a machine for causing the machine to perform steps comprising:

selecting at least one customized media channel established by a user based on at least one input from said user;

identifying one or more of media, data and/or service for said selected at least one customized media channel; and

presenting, at a first geographic location, directly in said at least one customized media channel, said identified one or more of media, data and/or service, wherein said media channel may be pushed from said first geographic location to a second geographic location.

12. The machine-readable storage according to claim 11, comprising code for causing display of said identified one or more of media, data and/or service in a channel view corresponding to said at least one customized media channel.

13. The machine-readable storage according to claim 12, comprising code for scheduling said display of said identified one or more of media, data and/or service in said channel view corresponding to said at least one customized media channel.

14. The machine-readable storage according to claim 12, comprising code for causing update of said display with newly available one or more of media, data and/or service in said channel view corresponding to said at least one customized media channel.

15. The machine-readable storage according to claim 11, comprising code for transferring said identified one or more of media, data and/or service to said at least one customized media channel.

16. The machine-readable storage according to claim 11, comprising code for selecting said identified one or more of media, data and/or service from a third party.

17. The machine-readable storage according to claim 16, comprising code for transferring said selected one or more of media, data and/or service from a storage associated with said third party into said at least one customized media channel.

18. The machine-readable storage according to claim 17, comprising code for queuing said one or more of media, data and/or service prior to said transfer, said queuing based on one or more of a bandwidth usage, a delivery cost and/or a delivery schedule.

19. The machine-readable storage according to claim 11, comprising code for receiving said selection of said identified one or more of media, data and/or service based on one or both of a device view and/or a media view.

20. The machine-readable storage according to claim 11, comprising code for controlling said presentation of said identified one or more of media, data and/or service from a graphical user interface corresponding to a channel view.

21. A system for programming media content in a distributed media network, the system comprising:

at least one processor that selects at least one customized media channel established by a user based on at least one input from said user;

said at least one processor identifies one or more of media, data and/or service for said selected at least one customized media channel; and

said at least one processor presents, at a first geographic location, directly in said at least one customized media channel, said identified one or more of media, data and/or service, wherein said media channel may be pushed from said first geographic location to a second geographic location.

22. The system according to claim 21, wherein said at least one processor displays said identified one or more of media, data and/or service in a channel view corresponding to said at least one customized media channel.

23. The system according to claim 22, wherein said at least one processor schedules said display of said identified one or more of media, data and/or service in said channel view corresponding to said at least one customized media channel.

24. The system according to claim 22, wherein said at least one processor causes said display to be updated with newly available one or more of media, data and/or service in said channel view corresponding to said at least one customized media channel.

25. The system according to claim 21, wherein said at least one processor transfers said identified one or more of media, data and/or service to said at least one customized media channel.

26. The system according to claim 21, wherein said at least one processor selects said identified one or more of media, data and/or service from a third party.

27. The system according to claim 26, wherein said at least one processor transfers said selected one or more of media, data and/or service from a storage associated with said third party into said at least one customized media channel.

28. The system according to claim 27, wherein said at least one processor queues said one or more of media, data and/or service prior to said transfer, said queuing based on one or more of a bandwidth usage, a delivery cost and/or a delivery schedule.

29. The system according to claim 21, wherein said at least one processor receives said selection of said identified one or more of media, data and/or service based on one or both of a device view and/or a media view.

30. The system according to claim 21, wherein said at least one processor controls said presentation of said identified one or more of media, data and/or service from a graphical user interface corresponding to a channel view.

31. The system according to claim 21, wherein said at least one processor is one or more of a media processing system processor, a media peripheral processor, a customized computer processor, a storage system processor and/or a customized computer executing media exchange software processor.

EVIDENCE APPENDIX
(37 C.F.R. § 41.37(c)(1)(ix))

- (1) U.S. 2002/0104099 (“Novak”), entered into record by Examiner in September 19, 2007 Office Action.
- (2) U.S. 6,868,452 (“Eager”), entered into record by Examiner in September 19, 2007 Office Action.

RELATED PROCEEDINGS APPENDIX
(37 C.F.R. § 41.37(c)(1)(x))

Not applicable.